

Ordinance Prohibiting Smoking in Places of Public Access



southburlington
VERMONT

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The Council of the City of South Burlington hereby ordains:

1. Purpose and Authority

This Ordinance is adopted by the City Council of South Burlington under authority conferred by 24 V.S.A. § 2291(14), 18 V.S.A. Chapter 37, and Sections 103 and 104 of the City Charter. It is the purpose of this Ordinance to promote the public health, safety and welfare of residents of and visitors to the City of South Burlington by prohibiting smoking in places of public access. This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

2. General Definitions

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Place of Public Access The same meaning contained in 18 V.S.A. § 1741(2), as now enacted or hereafter amended.

Publicly Owned Buildings and Offices The same meaning contained in 18 V.S.A. § 1741(2), as now enacted or hereafter amended.

Tobacco Products The same meaning contained in 7 V.S.A. § 1001, as now enacted or hereafter amended.

Tobacco Substitutes The same meaning contained in 7 V.S.A. § 1001, as now enacted or hereafter amended.

3. Smoking Prohibited

All persons shall be prohibited from possessing any lighted Tobacco Products or using Tobacco Substitutes in the common areas of all enclosed indoor places of public access and publicly owned buildings and offices.

No person who owns, manages, operates or otherwise controls any premises described above shall knowingly allow any person to possess any lighted Tobacco Products or use Tobacco Substitutes at any time such property is open to the public.

4. Exceptions

The restrictions in Section 3 on possession of lighted Tobacco Products and use of Tobacco Substitutes shall not apply to:

(A) Buildings owned and operated by social, fraternal, or religious organizations when used by the membership of the organization, their guests or families, or any facility that is rented or leased for private functions from which the public is excluded and for which arrangements are under the control of the sponsor of the function;

(B) Areas not commonly open to the public of owner-operated businesses with no employees;

(C) Use of Tobacco Substitutes in a business that does not sell food or beverages but is established for the sole purpose of providing a setting for patrons to purchase and use Tobacco Substitutes and related paraphernalia.

5. Enforcement

Any person who violates a provision of this Ordinance or who violates any condition of a license issued hereunder shall be subject to a civil penalty of up to \$800 per day for each day that such violation continues. Any South Burlington Police Officer shall be authorized to act as the Issuing Municipal Official to issue and pursue before the Judicial Bureau a municipal complaint. Each day the violation continues shall constitute a separate violation. A municipal complaint may, at the discretion of the Issuing Municipal Official, be dismissed upon the successful completion of a restorative justice program through the South Burlington Community Justice Center.

6. Civil Penalty; Waiver Fee

An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First offense	\$160
Second offense	\$320
Third offense	\$480
Fourth offense	\$640
Fifth and subsequent offenses	\$800

An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First Offense	\$100
Second offense	\$250
Third offense	\$400
Fourth offense	\$550
Fifth and subsequent offenses	\$700

7. Other Relief

In addition to the enforcement procedures available before the Judicial Bureau, the City Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief or to pursue any other remedy authorized by law.

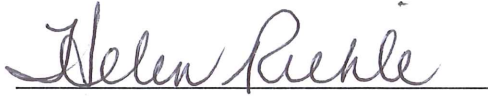
8. Applicability and Severability

(A) This Ordinance controls only those activities treated and does not supersede any state or federal law or consistent local regulation.

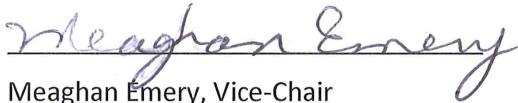
(B) Any part or provision of this Ordinance shall be considered severable and the invalidity of any part or section shall not be held to invalidate any other part or provision of this Ordinance.

Adopted at South Burlington, Vermont this 2nd day of JANUARY, 2018, and to be effective upon adoption.

SOUTH BURLINGTON CITY COUNCIL



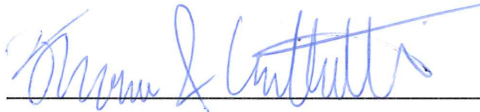
Helen Riehle, Chair



Meaghan Emery, Vice-Chair



Tim Barritt, Clerk



Thomas Chittenden



Pat Nowak

Received and recorded this 3 day of January, 2018.



Donna Kinville, City Clerk